

Form PTO-1390  
(REV. 10-2000)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NUMBER

I/98404 US

**TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371**

U.S. APPLICATION NO. (if known, see 37 CFR 1.8)

**09/744799**INTERNATIONAL APPLICATION NO.  
PCT/EP99/05476INTERNATIONAL FILING DATE  
26-JUL-1999PRIORITY DATE CLAIMED  
31-JUL-1998

## TITLE OF INVENTION

ATTENUATED EQUINE HERPESVIRUSAPPLICANT(S) FOR DO/EO/US SONDERMEIJER, Paulus J.A., VISSER, Nicolaas and  
DHORE, Cherida R.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1.  This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2.  This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3.  This is an express request to promptly begin national examination procedures (35 U.S.C. 371(f)).
4.  The US has been elected by the expiration of 19 months from the priority date (PCT Article 31).
5.  A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a.  is attached hereto (required only if not communicated by the International Bureau).
  - b.  has been communicated by the International Bureau.
  - c.  is not required, as the application was filed in the United States Receiving Office (RO/US).
6.  An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
7.  Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
  - a.  are attached hereto (required only if not communicated by the International Bureau).
  - b.  have been communicated by the International Bureau.
  - c.  have not been made; however, the time limit for making such amendments has NOT expired.
  - d.  have not been made and will not be made.
8.  An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9.  An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10.  An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

## Items 11 to 16 below concern document(s) or information included:

11.  An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12.  An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13.  A **FIRST** preliminary amendment.
  - A **SECOND** or **SUBSEQUENT** preliminary amendment.
14.  A substitute specification.
15.  A change of power of attorney and/or address letter.
16.  Other items or information:

APPLICATION NO. (If known) (37 CFR 1.5)

INTERNATIONAL APPLICATION NO.

PCT/EP99/05476

ATTORNEY'S DOCKET NUMBER

I/98404 US

17. The following fees are submitted:

**BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5) ):**

Neither international preliminary examination fee (37 CFR 1.482)  
nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO  
and International Search Report not prepared by the EPO or JPO ..... \$1000.00  
International preliminary examination fee (37 CFR 1.482) not paid to  
USPTO but International Search Report prepared by the EPO or JPO..... \$860.00  
International preliminary examination fee (37 CFR 1.482) not paid to USPTO but  
international search fee (37 CFR 1.445(a)(2)) paid to USPTO ..... \$710.00  
International preliminary examination fee paid to USPTO (37 CFR 1.482)  
but all claims did not satisfy provisions of PCT Article 33(1)-(4).....\$690.00  
International preliminary examination fee paid to USPTO (37 CFR 1.482)  
and all claims satisfied provisions of PCT Article 33(1)-(4) .....\$100.00

CALCULATIONS PTO USE ONLY

**ENTER APPROPRIATE BASIC FEE AMOUNT =** **\$ 860.00**

Surcharge of \$130.00 for furnishing the oath or declaration later than  20  30 months from the earliest claimed priority date (37 CFR 1.492(e)).

**\$**

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	
Total claims	28 - 20 =	8	X \$18.00	\$ 144.00
Independent claims	5 - 3 =	2	X \$80.00	\$ 160.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$270.00	\$
				<b>TOTAL OF ABOVE CALCULATIONS = \$ 1164.00</b>
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$
				<b>SUBTOTAL = \$</b>
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).			+ \$	
				<b>TOTAL NATIONAL FEE = \$ 1164.00</b>
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property			+ \$	
				<b>TOTAL FEES ENCLOSED = \$ 1164.00</b>
				<b>Amount to be refunded:</b> \$
				<b>charged:</b> \$ 1164.00

a.  A check in the amount of \$ \_\_\_\_\_ to cover the above fees is enclosed.

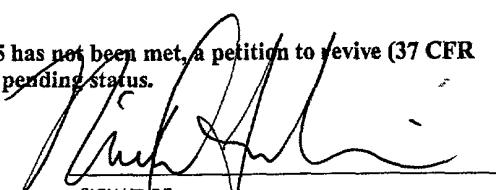
b.  Please charge my Deposit Account No. 02-2334 in the amount of \$1,164.00 to cover the above fees. A duplicate copy of this sheet is enclosed.

c.  The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 02-2334. A duplicate copy of this sheet is enclosed.

**NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.**

SEND ALL CORRESPONDENCE TO:

Michael G. Sullivan  
Akzo Nobel patent Department  
1300 Piccard Drive, Suite 206  
Rockville, MD 20850  
301-948-7400



SIGNATURE:  
Michael G. Sullivan  
NAME  
35,377  
REGISTRATION NUMBER

09/744799

JC02 Rec'd PCT/PTO 30 JAN 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

SONDERMEIJER, Paulus J.A., VISSER, Nicolaas and DHORE, Cherida R.

Serial Number: To be assigned Group Art Unit: To be assigned

Filed: Concurrently herewith Examiner: To be assigned

For: ATTENUATED EQUINE HERPESVIRUS

Corresponding to: PCT/EP99/05476, filed July 26, 1999

PRELIMINARY AMENDMENT

Assistant Commissioner of Patents  
Washington, D.C. 20231

January 30, 2001

Sir:

Prior to the calculation of the fee in the above-identified application, please make the following amendments:

IN THE SPECIFICATION:

Page 1, between lines 1 and 2, please insert the heading --  
Field of the Invention--; and

between lines 5 and 6, please insert the heading --  
Background of the Invention--.

Page 2, line 3, after "EHV" please insert -- , --;  
line 15, delete "general" and insert -- generally --;  
line 20, after "reason" please insert -- , --;  
line 25, after "general" please insert -- , --;  
line 26, delete "of"; and  
line 26, delete "use" and insert -- useful --.

Page 3, between lines 2 and 3, please insert the heading --  
Summary of the Invention--;

line 14, delete "affects" and insert -- affect --;

between lines 16 and 17, please insert --

Brief Description of the Drawings

**Figure 1** shows a map of the EHV-1 genome with the position of five cosmid DNA inserts that restore a viable virus after cotransfection and recombination between their overlapping sequences. Deletions in the IE gene promoter were introduced into a 8 kb SpeI fragment of the IRS that was re-assembled with a 21 kb SpeI and used as such to replace cosmid 2D9 in the cotransfection experiment.

**Figure 2** shows a schematic layout of the promoter region of the IE gene in the IRS from EHV-1. Various sequence elements that may regulate transcription initiation are indicated. Below are shown the deletions that were introduced and the mutants that were generated by incorporating these deletions into the viral genome after co-transfection with the set of overlapping cosmid DNA inserts. Strain EHV24 was restored in a similar manner but contained no deletions in the promoter region.

Detailed Description of the Invention --;

line 17, after "invention" please insert -- , --;

line 25, after "promoter" and "TATA-box" please insert  
-- , --;

line 25, delete "at";

line 26, after "start" please insert -- , --; and

line 29, after "promoters" please insert -- , --.

Page 4, line 1, delete "is" and insert -- are --;

line 3, after "invention" please insert -- , --;

line 12, after "gene" please insert -- , --;

line 20, delete "for" and insert -- to --;

line 29, after "EHV-1" please insert -- , --; and

line 32, delete "effecting" and insert -- affecting

--.

Page 5, line 2, after "shows" please insert -- an --;  
line 5, after "alternative" please insert -- , --;  
line 8, delete "the virus ability of" and insert --  
viral --;  
line 11, delete "on" and insert -- one --;  
line 18, delete "micro-organism" and insert --  
microorganism --;  
line 25, after "alternative" please insert -- , --;  
and  
line 26, after "site" please delete ",".

Page 6, line 25, after "desired" please insert -- , --; and  
line 27, after "molecules" please insert -- , --.

Page 7, line 2, after "invention" please insert -- , --;  
line 6, after "example" please insert -- , --;  
line 11, delete "is" and insert -- are --;  
line 11, after "selected" please insert -- , --;  
line 12, after "example" please insert -- , --;  
line 13, after "culture" please insert -- , --;  
line 13, delete "mutant containing" and insert --  
mutant-containing --;  
line 16, after "case" please insert -- , --; and  
line 19, delete "to" and insert -- into --.

Page 8, line 4, delete "sequence," and insert -- molecule --;  
line 7, after "is" and "example" insert -- , --;  
line 13, delete "sequence" and insert -- molecule --;  
line 15, delete "sequence" and insert -- molecule --;  
line 15, delete "in" and insert -- into --;  
line 18, after "addition" please insert -- , --;  
line 20, delete "furthermore" and insert -- further --  
;  
line 25, after "EHV" please insert -- , --;

line 28, after "vaccine" please insert -- , --; and  
line 29, after "example" please insert -- , --.

Page 9, line 4, after "general" please insert -- , --;  
line 7, after "given" and "alia" please insert -- , --  
;  
line 9, after "as" please insert -- , --;  
line 10, after "example" please insert -- , --;  
line 11, after "addition" please insert -- , --;  
line 14, after "include" and "to" please insert -- , --  
-;  
line 16, after "o/w)," please insert -- and --;  
line 18, after "are" and "example" please insert -- , --;  
--;  
line 26, delete "administration," and insert --  
administration and --; and  
line 27, after "administration" insert -- , --.

Page 10, line 3, after "be" and "example" insert -- , --;  
line 4, after "thereof" please insert -- , --;  
line 13, after "as" and "example" insert -- , --;  
please delete lines 16 - 27.

Page 11, line 22, delete "manufacturers" and insert --  
manufacturer's --;  
line 26, after "cosmids" please insert -- , --;  
line 26, delete "only now" and insert -- except that  
--;  
line 27, after "NotI," insert -- and --;  
line 28, after "inserts" please insert -- were --;  
line 29, after "cosmids" please insert -- , --;  
line 30, after "polymerase" please insert -- , --;  
and  
line 31, after "precipitation" please insert -- , --.

Page 12, line 3, after "obtained" please insert -- , --;  
line 11, delete "was" and insert -- were --;  
line 14, delete "Introducing" and insert  
"Introduction of"; and  
line 14, delete "in" and insert -- into --.

Page 13, line 25, after "disease" please insert -- , --; and  
line 26, delete "seen" and insert -- in view of --.

Page 14, line 1, delete "are" and insert -- is --;  
line 21, after "added" and "later", please insert --  
, --; and  
line 27, after "infection" please insert -- , --.

Page 15, line 4, delete "previuosly" and insert -- previously  
--; and  
line 5, after "EHV24" please insert -- , --.

IN THE CLAIMS:

Please cancel claims 1 - 15 without prejudice or disclaimer of  
the subject matter thereof.

Please add the following new claims 16 - 43:

-- 16. An equine herpesvirus (EHV) mutant, comprising one or  
more deletions, substitutions or insertions introduced into the  
endogenous promoter region of an essential viral gene. --

-- 17. The EHV mutant of claim 16, wherein one or more deletions  
are introduced into the promoter region. --

-- 18. The EHV mutant of claim 16, wherein the gene is the  
Immediate Early gene. --

-- 19. The EHV mutant of claim 16, wherein the mutant virus is the EHV-1 virus or the EHV-4 virus. --

-- 20. The EHV mutant of claim 16, further comprising one or more mutations in one or more other genes and/or their promoters.

--

-- 21. The EHV mutant of claim 16, comprising a deletion of the SacI-SacI fragment, the HindIII-ClaI fragment, the NdeI-NdeI fragment or the SphI-SphI fragment of the promoter region of the Immediate Early gene. --

-- 22. An isolated nucleic acid molecule comprising the endogenous promoter region of the Immediate Early gene from EHV and optionally one or more flanking sequences, which promoter region comprises a deletion of the SacI-SacI fragment, the HindIII-ClaI fragment, the NdeI-NdeI fragment or the SphI-SphI fragment, thereof. --

-- 23. The nucleic acid molecule of claim 22, wherein the EHV is EHV-1 or EHV-4. --

-- 24. A recombinant DNA molecule comprising the nucleic acid molecule of claim 22. --

-- 25. A host cell comprising the DNA molecule of claim 24. --

-- 26. A vaccine comprising the EHV mutant of claim 16 and a pharmaceutically acceptable carrier or diluent. --

-- 27. A vaccine comprising the EHV mutant of claim 17 and a pharmaceutically acceptable carrier or diluent. --

-- 28. A method for the preparation of an EHV mutant comprising

one or more deletions, substitutions or insertions in the endogenous promoter region of an essential viral gene, comprising the step of transfecting a cell culture with the DNA molecule of claim 24 and EHV genomic DNA. --

-- 29. A method of genetically attenuating EHV, comprising the step of mutating the endogenous promoter region of an essential gene, which mutation comprises one or more deletions, substitutions or insertions. --

-- 30. The method of claim 29, wherein the EHV is EHV-1 and EHV-4. --

-- 31. The method of claim 29, wherein the gene is an Immediate Early gene. --

-- 32. An attenuated equine herpesvirus (EHV) mutant, comprising one or more deletions, substitutions or insertions introduced into the endogenous promoter region of an essential viral gene.

--

-- 33. The EHV mutant of claim 32, wherein one or more deletions are introduced into the promoter region. --

-- 34. The EHV mutant of claim 32, wherein the gene is the Immediate Early gene. --

-- 35. The EHV mutant of claim 32, wherein the mutant virus is the EHV-1 virus or the EHV-4 virus. --

-- 36. The EHV mutant of claim 32, further comprising one or more mutations in one or more other genes and/or their promoters.

--

-- 37. A vaccine comprising the EHV mutant of claim 32, and a pharmaceutically acceptable carrier or diluent. --

-- 38. A vaccine comprising the EHV mutant of claim 33 and a pharmaceutically acceptable carrier or diluent. --

-- 39. The EHV mutant of claim 21, wherein said deletion is of the HindIII-ClaI fragment. --

-- 40. The nucleic acid molecule of claim 22, wherein said deletion is of the HindIII-ClaI fragment. --

-- 41. A vaccine comprising the EHV mutant of claim 21 and a pharmaceutically acceptable carrier or diluent. --

-- 42. A vaccine comprising the EHV mutant of claim 39 and a pharmaceutically acceptable carrier or diluent. --

-- 43. A vaccine comprising an attenuated equine herpesvirus (EHV) mutant, wherein one or more deletions are introduced into the endogenous promoter region of the Immediate Early gene, and a pharmaceutically acceptable carrier or diluent. --

REMARKS

Claims 1 - 15 are canceled and claims 16 - 43 are added.

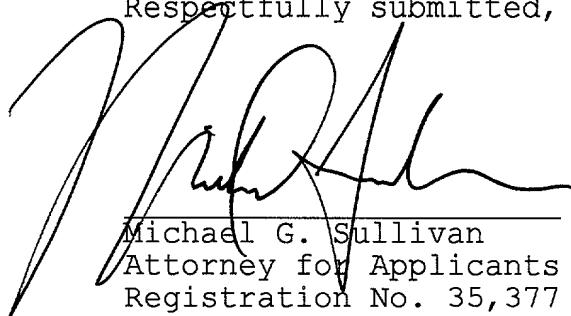
Claims 16 - 43 are presented for examination.

New claims 16 - 43 have been added to adapt the claim language to conventional U.S. patent practice and to claim preferred embodiments, and not for purposes of patentability.

It is believed that claims 16 - 43 recite a patentable improvement in the art. Favorable action is solicited. In the

event any fees are required with this paper, please charge our  
Deposit Account No. 02-2334.

Respectfully submitted,



Michael G. Sullivan  
Attorney for Applicants  
Registration No. 35,377

Attorney Docket NO. I/98404 US

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09/744799

Rec'd PCT/PTO 30 JAN 2001

PCT/EP99/05476

WO 00/08165

### ATTENUATED EQUINE HERPESVIRUS

The present invention relates to a new Equine herpesvirus (EHV) mutant, to its use in vaccines, to DNA sequences and vectors harbouring a mutated EHV sequence, to host cells transfected with such vectors and to a method of attenuating EHV in general, and EHV-5 1 in particular.

Equine herpesviruses comprise a group of antigenic distinct biological agents which cause a variety of infections in horses, ranging from subclinical to fatal disease.

The Equine herpesvirus is *inter alia* one of the most common causes of infectious abortions and may account for 15% of all mare abortions that occur during the last six 10 months of pregnancy. Equine herpesvirus type 1 (EHV-1) can cause abortion, perinatal foal mortality, respiratory inflammation and neurologic disease.

Although very similar to EHV-4 (previously classified as EHV-1 subtype 2), EHV-1's main clinical sign is abortion while EHV-4 results in respiratory disease. But both cross over and can be clinically indistinguishable as a disease.

The virus is contracted through inhalation. The respiratory signs can range from severe to inapparent. Abortion occurs primarily in mares over 7 months pregnant, follows infection in 14 to 120 days and can occur suddenly without signs in the mare. The virus infects fetal lung and liver tissue and the mare placental endothelial tissue. Abortion may occur because of direct effects on the fetus or because of placental separation. Near term 15 fetuses may be born alive but die quickly due to lung pathology.

Primary infection of upper respiratory tract of young horses results in a febrile illness which lasts for 8 to 10 days. Immunologically experienced mares may be reinfected via the respiratory tract without disease becoming apparent so that abortion usually occurs without warning. The neurological syndrome is associated with respiratory disease or abortion and 20 can affect animals of either sex at any age, leading to incoordination, weakness and posterior paryses.

Other EHV viruses are EHV-2 or Equine Cytomegalovirus, which is a ubiquitous antigenically heterogeneous, usually slowly growing group of viruses, causing no-known disease, and EHV-3, the Equine Coital exanthema virus which is the causative agent of a 30 relatively mild pregenital exanthema of both mare and stallion. EHV-1 subtype 2 is now called EHV-4, and is primarily associated with respiratory disease, although sporadic EHV-4 induced abortions have been reported.

The genomic structure of the EHV is similar to that of other alpha herpesviruses, comprising a double stranded linear molecule consisting of two covalently linked segments (UL and US), wherein the US segment is flanked by inverted repeats. Of the EHV EHV-1 is the most extensively studied. Telford, E.A.R. et al., Virology 189, 304-316 (1992) have 5 published the complete DNA sequence of EHV-1. The genome consists of about 150,000 bp and about 76 distinct genes have been recognised up to now.

Equine herpesviruses in general and EHV-1 in particular, are ubiquitous pathogens in horses. EHV-1 can even cause epidemics of abortion, respiratory tract disease and central nervous system disorders. Prevention of infection with the virus is therefore of major 10 economic importance, because EHV can be a severe threat, especially to horses living in close groups, such as studs.

Current vaccines against these viruses comprise chemically inactivated viruses or attenuated live viruses. However, these require multiple administration and have only a limited efficacy.

Inactivated vaccines generally induce only a low level of immunity. Attenuated live 15 vaccines are thus preferred because they evoke a more long-lasting immune response and are easier to produce. Attenuation can be obtained by serial passages of virulent strains in tissue culture of other hosts than the natural one. However, the strains thus obtained are not very well defined and were considered not to be effective. Furthermore, there is always a risk 20 that the viruses revert to virulence resulting in disease in inoculated animals. For this reason genetic attenuation was adopted as a novel approach to obtain safe vaccine strains.

Genetic attenuation consists for example of deletion of one or more non-essential genes. Examples are viruses with deletions in the thymidine kinase gene or the gene 25 encoding glycoprotein gE. Both have been used successfully for genetic attenuation of herpesviruses in general but similar mutations in EHV-1 strongly abolished replication in the host and made the viruses of no longer use for vaccine purposes. The mutations furthermore often did not result in the desired level of attenuation.

It is therefore a first objective of the present invention to provide new EHV virus strains that do not have the drawbacks mentioned above when used in vaccines.

30 It is a second objective of the invention to provide a method for the more general genetic attenuation of herpesviruses.

The third objective of the invention is to provide for live vaccines that comprise said novel EHV mutant viruses.

The first objective of the present invention is achieved by an Equine herpesvirus (EHV) mutant, comprising one or more deletions, substitutions or insertions in the 5 endogenous promoter region of an essential viral gene. Preferably said mutation is a deletion in said endogenous promoter region.

Because attenuation of EHV by mutating non-essential genes was not successful, at least for vaccine purposes, the skilled person would have considered a mutation in the endogenous promoter region of essential genes to be even less promising since one would 10 not have expected the virus to replicate in the host at all. Therefore, the finding of the invention that the endogenous promoter region of essential genes can be mutated to reduce the virulence of EHV viruses leading to a successful attenuation is highly surprising.

The mutations according to the invention do not abolish replication of the virus in the host and affects the level of virulence of the virus. The EHV mutants according to the 15 invention are stable and attenuated with respect to the parent strain, which make them very suitable for use in a live vaccine.

In a first embodiment of the invention the promoter region is of the immediate early (IE) gene of the EHV virus. Other essential genes of which the promoters can be used are the genes involved in DNA replication (e.g. gene 57 in EHV-1 encoding the helicase/primase 20 complex), or transactivators of immediate early genes such as gene 12 in EHV-1 or genes encoding essential structural components of the virion such as the glycoproteins gB, gH and gL in EHV-1 or other herpesviruses.

The sequence upstream of the transcription initiation start contains several elements that regulate expression of a gene. All these elements together are defined as the promoter. 25 The core sequence of the promoter also known as TATA-box is located at about 40 base pairs from the transcription start although this structure may vary considerably from case to case. Other more or less conserved elements are located further upstream such as the CCAAT sequence and CG repeated motives. Some elements are specifically found in certain types of promoters such as a TAATGARATT consensus sequence in immediate early 30 genes of herpesviruses. Also the sequence corresponding to the non-translated region upstream of the ATG start codon can be involved in promoter activity. Many of these

elements have not yet been defined nor is fully understood how they interact with the so-called transcription factors as a result of which transcription of the gene is regulated.

For the purpose of the present invention however, a promoter is defined as the sequence extending over several hundreds of base pairs upstream of the coding region of the gene with the most important part situated in the 200 base pairs preceding the transcription initiation site. Examples of sequences that contain promoters from essential genes can be retrieved from GenBank. The complete sequence for EHV-1 and EHV-4 have been deposited at GenBank under Accession No. M86664 and AF030027, respectively. For genes 57 and 12 from EHV-1, the promoter will be located between nucleotides 101.600-102.347 and 12.900-13.505, respectively.

Alternatively, promoter regions can be determined by nucleotide sequence analysis of DNA fragments that contain an essential gene including the region upstream of the coding sequence.

A preferred embodiment of the invention is the endogenous promoter of the IE gene of EHV-1 of which one copy is located between nucleotide 118.590 and about 119.890 in the Inverted Repeat of the short segment (IRs).

It has been found according to the invention that the endogenous promoter region of essential genes can be more suitable for attenuating the virulence of EHV. Until now this has not been considered because the manipulation of an essential gene was assumed to be deleterious for efficient replication in the host.

The term "essential gene" as used herein is intended to encompass genes that are obligatory for replication in the host. "Gene" is used solely for the coding sequence, whereas "promoter region" refers to the regulatory sequences necessary for expression of the gene.

Preferred mutations according to the invention are deletions between 1 and about 500 bases at any position within the promoter region that reduce the level of expression of the essential gene that is located downstream and attenuates virulence of the pathogen. By no means does a deletion according to the present invention abolish the expression of the gene product.

For EHV-1 preferred deletions are deletion of the SacI-SacI fragment or the HindIII-Clal fragment or the NdeI-NdeI fragment or the SphI-SphI fragment of the promoter region of the Immediate Early gene. Highly preferred is a deletion of the HindIII-Clal fragment of the IE promoter region; this deletion abolishes virulence of the virus without effecting local

replication in the host. An EHV-1 mutant comprising a deletion of the HindIII-Clal fragment of the promoter region of its IE gene shows exceptionally good level of attenuation without any negative effect on its replication, thus making this mutant highly suitable for use in a live vaccine.

5 As an alternative fragments with a size between 1 and about 500 bases can be inserted in the endogenous promoter region, provided that said insertion does not abolish expression of the essential gene product. Such insertions according to the invention do not interfere with the virus ability of replication and have the advantage that they can lead to a desired level of reduction in virulence.

10 Substitutions can be made in the endogenous promoter of an essential viral gene varying from one or more nucleotides up to 500 base pairs provided that said substitution does not lead to loss of expression of the essential gene product. Substitutions according to the invention do not result in abolished replication of the virus in the host, but can lead to a desired level of attenuation.

15 Substitution according to the invention should not be confused with substitution of the complete promoter region by a cell, tissue or host specific promoter as described by Glazenburg et al. in US-5,580,564. Glazenburg aims at choosing the cell, the tissue and/or the host such that the harmful characteristics of the micro-organism are not expressed or are only expressed to an acceptable degree. The overall virulence of the virus is not decreased, 20 but instead the localisation of the viral replication is limited to particular cells, tissues or hosts. Substitutions according to the invention are not intended to encompass such mutations into specific promoters that lead to a modified cell, tissue or host tropism.

25 Deletions can be introduced by the following methods. Based on the map of the promoter region, suitable restriction sites can be deduced to remove fragments of a defined size and at a defined position in the promoter. As an alternative one could start at a single site, and make progressive deletions in either one or two directions using the technique described by Henikoff (Gene 28, 351-359 (1984)). Also linker or PCR-mediated mutagenesis (Current Protocols in Molecular Biology, Eds. Ausubel et al., Chapter 8, John Wiley & Sons. Inc. (1996) can be used.

30 Mutations introduced in cloned subfragments can be transferred to the virus genome as for example described in Maniatis, T. et al. (1982) in "Molecular cloning", Cold

Spring Harbor Laboratory; European Patent Application 74.808; Roizman, B. & Jenkins, F.J. (1987), Science 229, 1208; Higuchi, R. et al. (1988), Nucleic Acids Res. 16, 7351.

Briefly, this can be accomplished by constructing a recombinant DNA molecule for recombination with Equine herpesvirus DNA. Such a recombinant DNA molecule comprises  
5 vector DNA which may be derived from any suitable plasmid, cosmid, virus or phage, and contains Equine herpesvirus DNA of the region identified above.

Examples of suitable cloning vectors are plasmid vectors such as pBR322, the various pUC and Bluescript plasmids, cosmid vectors, e.g. THV, pJB8, MUA-3 and CosI, bacteriophages, e.g. lambda-gt-WES-lambda B, charon 28 and the M13mp phages or viral  
10 vectors such as SV40, Bovine papillomavirus, Polyoma and Adeno viruses. Other vectors to be used can be retrieved from the Intelligenetics vector database accessible through website <http://www.seqnet.dl.ac.uk>.

A deletion to be introduced in the described region can be incorporated first in a recombinant DNA molecule carrying the promoter region of the essential gene of EHV by means of a restriction enzyme digest with one or more enzymes of which the cleavage sites  
15 are correctly positioned in the promoter region of the gene. Recircularization of the remaining recombinant DNA molecule would result in a derivative lacking at least part of the promoter region. Alternatively, progressive deletions can be introduced either in one or two directions starting from within the restriction enzyme cleavage site present within the sequence of the  
20 gene. Enzymes such as Bal31 or exonuclease III can be used for this purpose.

Recircularized molecules are transformed into E. coli cells and individual colonies can be analyzed by restriction mapping in order to determine the size of the deletion introduced into the promoter region. An accurate positioning of the deletion can be obtained by sequence analysis.

In case the insertion of a heterologous nucleic acid sequence is desired the recombinant DNA molecule comprising the EHV essential gene may be digested with appropriate restriction enzymes to produce linear molecules whereafter the heterologous nucleic acid sequence can be ligated to the linear molecules followed by recircularization of the recombinant DNA molecule.  
25

30 Optionally, a deletion is introduced into the promoter region of the EHV gene concomitantly with the insertion of the heterologous nucleic acid sequence.

In case the method of in vivo homologous recombination is applied for the preparation of an EHV mutant according to the invention the EHV sequences which flank the deleted gene sequences or the inserted heterologous nucleic acid sequences should be of appropriate length, e.g. 50-3000 bp, as to allow in vivo homologous recombination with the 5 viral EHV genome to occur.

Subsequently, cells, for example equine cells such as equine dermal cells (NBL-6) or cells from other species such as RK13, Vero and BHK cells can be transfected with EHV DNA in the presence of the recombinant DNA molecule containing the mutation flanked by appropriate EHV sequences whereby recombination occurs between the EHV sequences in 10 the recombinant DNA molecule and the corresponding sequences in the EHV genome.

Recombinant viral progeny is thereafter produced in cell culture and can be selected for example genotypically or phenotypically, e.g. by hybridization. The selected EHV mutant can be cultured on a large scale in cell culture whereafter EHV mutant containing material can be collected therefrom.

15 The EHV-1 genome contains two copies of the Immediate Early gene, in opposite orientation. In this case a convenient method for mutating the promoter is the construction of a set of cosmids harbouring fragments of the EHV genome, including only one of the two copies of the IE gene and its promoter region. This single copy of the promoter region can then be mutated in a routine manner. The set of cosmids is transfected to a confluent 20 monolayer of host cells. Viruses will be formed by recombination and can be recovered from plaques formed in the monolayer. It is necessary to use one copy of the IE promoter region and corresponding gene for the preparation of a mutant according to the invention to prevent replacement of the mutation by the non-mutated promoter region. The mutant virus will restore a second identical copy of the mutated promoter region of the IE gene while 25 assembling a functional full-size genome containing both inverted repeats flanking the Us.

It is standard procedure to test the efficacy and safety of a vaccine in vivo. Initial testing of mutant EHV viruses can be performed in the well-known mouse model as described by van Woensel et al., J. Virological Methods 54, 39-49, (1995) and Osterrieder et al., Virology 226, 243-251, (1996). Final testing of the safety and efficacy of the virus strain 30 takes place in vivo in horses.

The mutation(s) in the endogenous promoter of one or more essential genes can be combined with one or more mutations in one or more other genes and/or their promoters.

Examples of these are mutations creating a marker vaccine which allow differentiation of vaccinated animals from infected animals. This way a further optimisation of the vaccine's properties can be obtained.

The invention further relates to a nucleic acid sequence, comprising the  
5 endogenous promoter region of an EHV essential gene and optionally one or more flanking sequences, which promoter region comprises one or more deletions, substitutions or insertions. The gene is for example an Immediate Early gene, or any other essential gene, such as those described hereinabove.

Specific deletions are deletions of the SacI-SacI fragment or the HindIII-Clal fragment or the NdeI-NdeI fragment or the SphI-SphI fragment of the promoter region of the  
10 Immediate Early gene. Particularly preferred are deletions of the HindIII-Clal fragment of the promoter region of the Immediate Early gene of EHV.

The nucleic acid sequence in a specific embodiment comprises the promoter region of EHV-1 or EHV-4, more specifically EHV-1.

This nucleic acid sequence can be incorporated in a recombinant DNA molecule,  
15 which is also part of the invention. The selection of suitable vectors to prepare the recombinant DNA molecule are well within the reach of the person skilled in the art.

In addition the invention relates to a host cell harbouring such a recombinant DNA molecule.

20 The present invention furthermore provides for a vaccine comprising an EHV mutant of the invention and a pharmaceutically acceptable carrier or diluent.

A live attenuated mutant according to the present invention can be used to vaccinate equines, particularly domestic and non-domestic, and more specifically horses.  
Vaccination with such a live vaccine is preferably followed by replication of the mutant within  
25 the inoculated host, which host will then elicit an immune response against EHV and the animal inoculated with the EHV mutant according to the invention will be immune to infection by EHV. Thus, a mutant according to claim 1 can serve as a live vaccine.

For the preparation of a live vaccine the recombinant EHV mutant according to the present invention can be grown on a cell culture, for example of equine, rabbit, hamster or  
30 calf origin. The viruses thus grown can be harvested by collecting the tissue cell culture fluids

and/or cells. The live vaccine may be prepared in the form of a suspension or may be lyophilised.

The vaccine according to the invention can be prepared using standard techniques available in the art. In general the vaccine is prepared by mixing the virus with a 5 pharmaceutically acceptable carrier or diluent.

For administration to animals, the EHV mutant according to the present invention can be given *inter alia* intranasally, intradermally, subcutaneously or intramuscularly.

Pharmaceutically acceptable carriers or diluents that can be used to formulate a vaccine according to the invention are sterile and physiologically compatible such as for 10 example sterile water, saline, aqueous buffers such as alkali metal phosphates (e.g. PBS), alcohols, polyols and the like. In addition the vaccine according to the invention may comprise other additives such as adjuvants, stabilizers, anti-oxidants, preservatives and the like.

Suitable adjuvants include but are not limited to aluminium salts or gels, carbomers, 15 non-ionic blockcopolymers, tocopherols, monophosphoryl lipid A, muramyl dipeptide, oil emulsions (w/o or o/w), cytokines. The amount of adjuvant added depends on the nature of the adjuvant itself.

Suitable stabilizers for use in a vaccine according to the invention are for example carbohydrates including sorbitol, mannitol, starch, sucrose, dextrin and glucose, proteins 20 such as albumin or casein, and buffers like alkaline phosphates.

Suitable preservatives include, amongst others, thimerosal, merthiolate and gentamicin.

Live vaccines according to the invention comprise an effective amount of the aforementioned EHV mutant virus and a pharmaceutically acceptable carrier. The term "effective" 25 as used herein is defined as the amount sufficient to induce an immune response in the target animal. The amount of virus will depend on the route of administration, the time of administration as well as age, general health and diet of the subject to be vaccinated.

The dosages in which the live vaccines according to the invention can prevent infectious disease can be readily determined by routine trials with appropriate controls and 30 are well within the routine skills of the practitioner.

The useful dosage to be administered will vary depending on the age, weight, mode of administration and type of pathogen against which vaccination is sought. A suitable dosage can be for example about  $10^{3.0}$ - $10^{7.0}$  pfu/animal.

According to a further aspect thereof the invention provides a process for the  
5 preparation of EHV mutants, comprising transfecting a cell culture with a recombinant DNA molecule and EHV genomic DNA.

The invention thus provides for a method of genetically attenuating equine herpesviruses, comprising mutation of the endogenous promoter region of an essential gene, which mutation consists of one or more deletions, substitutions or insertions in the promoter  
10 region of an essential gene.

The present invention will be further illustrated in the non-limiting examples that follow. All molecular biological techniques that are used in the examples are standard procedures as for example described in Sambrook et al., "Molecular Cloning, A Laboratory Manual", Cold Spring Harbor Laboratory Press (1989). These techniques will not be described in detail.  
15

#### LEGENDS

**Figure 1** shows a map of the EHV-1 genome with the position of five cosmid DNA inserts that restore a viable virus after cotransfection and recombination between their overlapping sequences. Deletions in the IE gene promoter were introduced in a 8 kb SpeI fragment of the IRs that was re-assembled with a 21 kb SpeI and used as such to replace cosmid 2D9 in the cotransfection experiment.  
20

**Figure 2** shows a schematic layout of the promoter region of the IE gene in the IRs from EHV-1. Various sequence elements that may regulate transcription initiation are indicated. Below are shown the deletions that were introduced and the mutants that were  
25 generated by incorporating these deletions into the viral genome after co-transfection with the set of overlapping cosmid DNA inserts. Strain EHV24 was restored in a similar manner but contained no deletions in the promoter region.

**EXAMPLES****EXAMPLE 1: Construction of the cosmid set for generating EHV-1 virus**

The SuperCos 1 cosmid vector kit was purchased from Stratagene (Catalog# 251301) and enzymes were purchased at New England Biolabs. The vector was further modified by adding extra restriction enzyme sites to it. For this a DNA linker was purchased from Pharmacia containing the following restriction sites: BamHI, I-SceI, PacI, Ascl, EcoRV, PacI, Ascl, I-SceI and BamHI. The SuperCos 1 vector and the linkers were both cut with BamHI. The BamHI digested vector was dephosphorylated with alkaline phosphatase after which the BamHI digested linker was ligated into the SuperCos 1 vector by T4 DNA ligase, all according to the manufacturer's instructions. The resulting vector was designated THM and used for cloning the EHV-1 inserts.

Viral DNA was obtained from the EHV-1 M8 strain, a pathogenic EHV-1 strain isolated from a horse with severe signs of an EHV-1 infection, but could be any pathogenic EHV-1 strain. This particular virus was grown in cultures of Vero cells and was recovered by centrifugation. The viral DNA was prepared by lysis with EDTA and SDS, phenol extraction and alcohol precipitation.

The first set of cosmids was constructed by digestion of the EHV-1 DNA with PacI. After phenol extraction of the M8 PacI digests, the ends were filled in with T4 DNA polymerase and then dephosphorylated with alkaline phosphatase. The cosmid vector THM was digested with EcoRV and the inserts were ligated into the vector with T4 DNA ligase.

The ligation mix was added to a packaging mix (Gigapack, Stratagene) according to the manufacturers instructions. The packaged DNA was added to a fresh overnight culture of E.coli DH1 and placed for 1 hour at 37°C. The bacteria suspension was then spread onto agar plates containing ampicillin. Plasmid DNA from all colonies was submitted to restriction enzyme analysis on the insert.

For the construction of other cosmids the same procedure was followed only now the viral DNA was digested with Ascl, Asel, RsrI, or NotI, all ends were then filled in with T4 DNA polymerase and the inserts ligated into the EcoRV site of the vector.

To obtain a third generation of cosmids the viral DNA was sheared twice through a 30 19G needle, the ends were then filled in with T4 DNA polymerase and after phenol extraction and precipitation the inserts were cloned again into the EcoRV site of the cosmid vector

THM. The vector with the inserts was then packed, put on bacteria and the colonies analyzed.

From all colonies obtained the restriction maps were determined by multiple digestions. Then the location of the different clones was determined by comparing the 5 restriction map of the clones with the restriction map of EHV-1 strain Ab4 (Telford et al, 1992).

Cosmids 2D3, 1A12, 1F4, 2C12 and 2D9 were selected such that the complete genome could be reconstituted by recombination between overlapping sequences (Fig. 1).

Viable virus was generated after transfecting EHV-1 inserts excised from the 10 cosmids by digestion with I-SceI (Boehringer) into cultures of equine dermal cells (ATCC number CCL-57) using the calcium phosphate method. Viral progeny was passaged and plaque purified on monolayers of rabbit kidney (RK13, ATCC number CCL-37) or other kidney cells that support viral replication.

#### **EXAMPLE 2: *Introducing deletions in the promoter of the IE gene***

The genome of EHV-1 contains two copies of the Immediate Early (IE) gene located in the repeated sequence elements IRs and TRs flanking the unique short region. Stable mutations affecting expression of the IE gene need to be introduced at both positions simultaneously before the new phenotype will be expressed.

Therefore, one of the cosmids named "2D9" was modified such that a fragment of about 7 kb at the right end of the TRs and containing a single copy of the IE gene, was deleted. This was obtained by subcloning the two Spel fragments of 8 and 21 kb from 2D9 in pGEM-9Zf(-) (Promega) using the Spel or Spel/XbaI sites, respectively (Fig. 1). Insertion of the 21 kb fragment resulted in pEHV17 and restored a single Spel site in which the 8 kb Spel fragment subsequently can be inserted to regenerate a 29 kb EHV-1 fragment used for 25 replacing 2D9 in the cosmid transfection described in Example 1. The 8 kb Spel contains all of the coding sequence of the IE gene and about 2 kb of upstream sequences including the promoter of the IE gene. Mutations in the promoter region were introduced in a plasmid designated pEHV06 that contained a 2 kb subfragment from the 8 kb Spel. This insert included a 1 kb EcoRV fragment which essentially represented the promoter and other 30 regulatory elements located in the sequence upstream of the coding region of the IE gene (Fig. 2).

By selecting the proper restriction enzymes that had two site in the EcoRV fragment of pEHV06 and relatively near to each other, small deletions with an exact size could be introduced at various positions in the promoter sequence of the IE gene. The enzymes SacI, NdeI, SphI and a combination of ClaI and HindIII were suitable for this purpose. The 5 deletions introduced in pEHV06 by digesting with each of these enzymes and recircularizing the plasmid DNA with T4 DNA ligase are represented in Fig. 2.

The mutated EcoRV inserts were exchanged with the original EcoRV insert in the 8 kb Spel fragment and these were subsequently assembled with the 21 kb Spel in pEHV17 resulting in plasmids that were designated pEHV22, pEHV23, pEHV25 and pHV26 for the 10 deletions generated with the enzymes SacI, HindIII/ClaI, NdeI and SphI, respectively (Fig. 2). pEHV24 contained the re-assembled 8 and 21 kb Spel fragments but without any deletion in the promoter region. These plasmids were used to replace 2D9 in the cotransfection of equine dermal cells with the cosmid inserts from 2D3, 1A12, 1F4 and 2C12, generating 15 viable virus with defined small deletions in the promoter region of both copies of the IE gene. Viral progeny was plaque purified and amplified on RK13 cells. Presence and size of the deletions were confirmed by DNA blot analysis and PCR.

Mutant strains were designated EHV22, EHV23, EHV25 or EHV26 with the number corresponding to the plasmid used in the cotransfection experiment. Strain EHV24 represents the control virus and contains the non-mutated promoter region.

20 Cosmid derived mutant EHV strains 22, 25 and 26 and the control strain EHV24 grow to titers between 2 and  $4 \times 10^6$  pfu/ml on RK13 cells, which is slightly less than the parent M8 strain that grows to titer of  $5 \times 10^6$  pfu/ml. Strain EHV23 replicated less efficiently and resulted in titers of about  $2 \times 10^5$  pfu/ml.

### **EXAMPLE 3: Analysis of virulence in mice**

25 Infection with EHV-1 can cause pyrexia and clinical signs of respiratory disease but most important is the induction of abortion. However, seen the complexity of vaccination trials in pregnant horses, models have been developed in mice measuring the pathogenicity of EHV-1 strains based on weight reduction (van Woensel et al., J. Virological Methods 54, 39-49, (1995); Osterrieder et al., Virology 226, 243-251, (1996)).

30 Mice that are 4-5 weeks of age are inoculated intranasally with a dose of  $10^{6.5}$  pfu per animal. Body weights are determined on the 9 days following infection and the weight

gain as percentage of the weight at day 0 are plotted in a graph. The degree of pathogenicity of various EHV-1 strains is deduced from the position of resulting curves relative to each other. Significant losses in body weight, particularly at day 3 and 4 after infection, correlate with high virulence of the strain of interest. Series of EHV-1 isolates carrying deletions in the  
5 IE promoter region (see Example 2) can be analyzed for virulence by comparison with the parent M8 strain or cosmid generated EHV-1 virus containing the intact promoter sequence.

#### **EXAMPLE 4: Analysis of virulence in horses**

Although pathogenicity of individual EHV-1 strains using the mouse model can be correlated with behavior in the natural host, more conclusive evidence can be obtained from  
10 vaccination trials in horses. In addition, the level of protection against challenge infection and ultimately in preventing abortion in pregnant mares can only be established in the target animal.

The experiment was performed in four conventional colts at the age of about one year and previously tested for the absence of EHV-1 serum antibodies. Animals were divided  
15 in groups of two, one group receiving mutant strain EHV23, the other receiving mutant strain EHV24. The colts were inoculated intranasally with a single dose of about  $5 \times 10^5$  pfu, reconstituted in 2 ml Unisolve diluent and applying 1 ml in each nostril. Following 10 days, the animals were monitored for clinical reactions. Antibodies were measured at several time points either by virus-neutralisation or using a complement-fixing antibody assay. Infected  
20 blood leucocytes (viremia) and excreted virus in nasal swabs were determined by titration.

After three weeks, a fifth EHV-1 seronegative horse was added and two weeks later all five horses were challenged intranasally with  $7 \times 10^5$  pfu of the pathogenic EHV-1 AB4p strain. The animals were again monitored for clinical reactions, virus excretion and infected blood leucocytes.

25 The horses vaccinated intranasally with a high dose of mutant strain EHV23 showed virtually no signs of disease, whereas horses vaccinated with mutant control strain EHV24 showed severe signs of EHV-1 infection including fever and ocular or nasal discharges during several days. Both mutant strains were obtained in an identical way, in case of EHV23 introducing a 160 bp deletion in the IE promoter and in case of EHV24 no deletion at all(see  
30 example 2). EHV24 strain thus represents the control virus, containing the non-mutated IE

promoter. Surprisingly, both strains were replicating in the nasal cavity, although it appeared that replication of the EHV23 strain was slightly delayed.

Challenge of all horses with EHV-1 strain AB4p did not induce significant signs of disease in the animals that had been previously inoculated with strain EHV23 or EHV24. No viremia was detected in any of the horses inoculated with either strain EHV23 or EHV24 which indicates a solid systemic protection of these animals against a challenge infection with the EHV-1 AB4p strain.

PCT/EP99/05476  
5 September 2000

### CLAIMS

1. Equine herpesvirus (EHV) mutant, comprising one or more deletions, substitutions or insertions in the endogenous promoter region of an essential viral gene with respect to the parent strain.
2. EHV mutant as claimed in claim 1, wherein deletions are introduced into the promoter.
3. EHV mutant as claimed in claims 1-2, wherein the gene is the Immediate Early gene.
4. EHV mutant as claimed in claims 1-3, wherein the mutant virus is the EHV-1 virus or the EHV-4 virus.
5. EHV mutant as claimed in claims 1-4, further comprising one or more mutations in one or more other genes and/or their promoters.
6. EHV-1 mutant as claimed in claims 1-5, comprising a deletion of the SacI-SacI fragment or the HindIII-ClaI fragment or the NdeI-NdeI fragment or the SphI-SphI fragment of the promoter region of the Immediate Early gene.
7. Nucleic acid sequence, comprising the endogenous promoter region of the Immediate Early gene from EHV and optionally one or more flanking sequences, which promoter region comprises a deletion of the SacI-SacI fragment or the HindIII-ClaI fragment or the NdeI-NdeI fragment or the SphI-SphI fragment of the promoter region of the Immediate Early gene.
8. Nucleic acid sequence as claimed in claim 7, wherein the EHV is EHV-1 or EHV-4.
9. Recombinant DNA molecule comprising a nucleic acid sequence as claimed in claims 7 or 8.
10. Host cell harbouring a recombinant DNA molecule as claimed in claim 9.
11. Vaccine comprising an EHV mutant as claimed in claims 1-6 and a pharmaceutically acceptable carrier or diluent.
12. A process for the preparation of an EHV mutant as claimed in claims 1-6, comprising transfection of a cell culture with a recombinant DNA molecule as claimed in claim 11 and EHV genomic DNA.
13. Method of genetically attenuating EHV, comprising mutation of the endogenous promoter region of an essential gene, which mutation consists of one or more deletions, substitutions or insertions in the promoter region of an essential gene.
14. Method as claimed in claim 13, wherein the EHV is EHV-1 or EHV-4.
15. Method as claimed in claims 13-14, wherein the gene is an Immediate Early gene.

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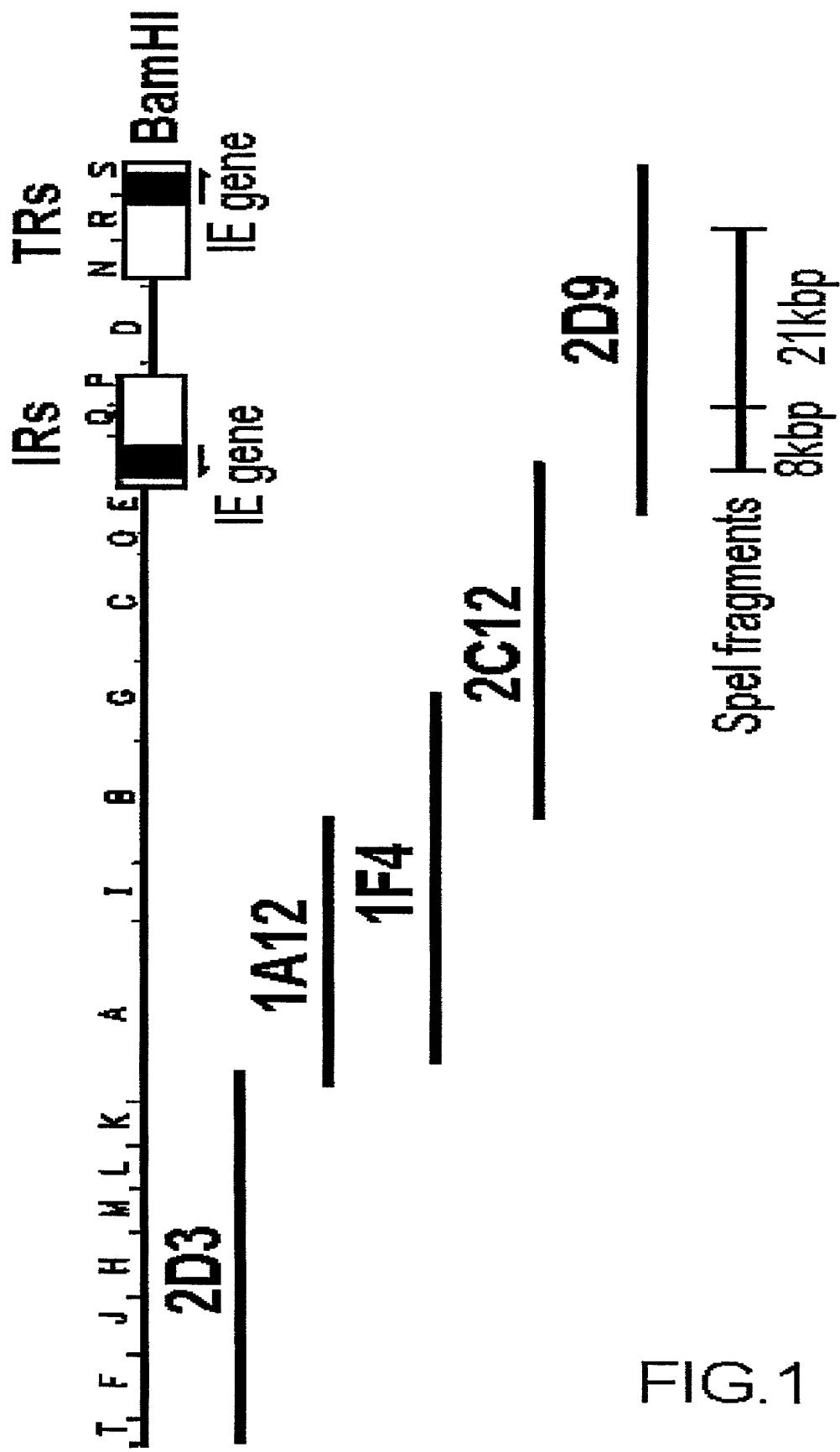
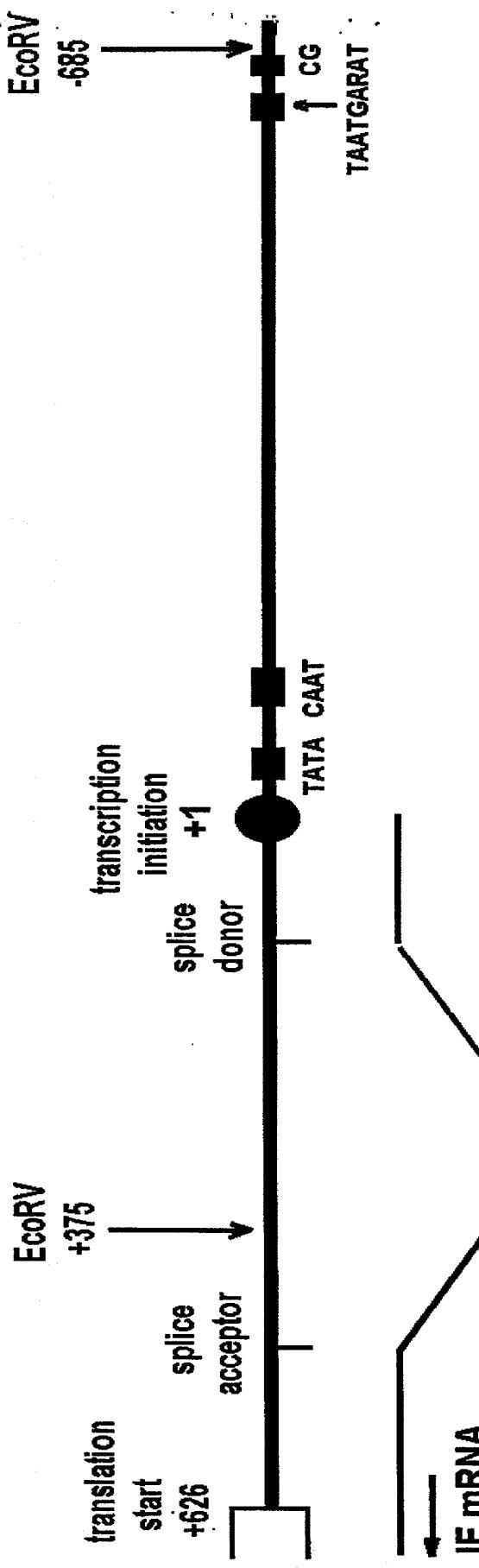


FIG.1



(SacI fragment deleted, generates mutant EHV22)

(HindIII/ClaI fragment deleted, generates mutant EHV23)

(NdeI fragment deleted, generates mutant EHV25)

(SphI fragment deleted, generates mutant EHV26)

FIG. 2

**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original first and joint inventor (if plural names are listed below) of the subject matter for which a patent is sought on the invention entitled:

**"Attenuated Equine Herpesvirus"**

the specification of which

[CHECK ONE]

[] is attached hereto

[ ] was filed on \_\_\_\_\_ as Application Serial No.

and was amended on \_\_\_\_\_

[if applicable]

[X] as filed under the Patent Cooperation Treaty on **26/07/1999**  
Serial **EP99/05476**, The United States of America being designated.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined Title 37, Code of Federal Regulations Section 1.56(a)

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign applications(s) for patent or inventor's certificate having a filing date before that of the application(s) on which priority is claimed:

Prior Foreign Application(s)			Priority claimed
Number	Country	Day/Month/Year filed	X Yes No
98202594.2	EP	31/ 07 / 1998	_____ Yes _____ No
Number	Country	Day/Month/Year filed	_____ Yes _____ No
Number	Country	/ /	_____ Yes _____ No
Number	Country	Day/Month/Year filed	_____ Yes _____ No

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose to the patent and Trademark

Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application.

(U.S. Serial No.) (Filing date) (Status-patented, pending, abandoned)

(U.S. Serial No.) (Filing date) (Status-patented, pending, abandoned)

And I hereby appoint as principal attorney, William M. Blackstone, Registration No. 29,772, and Michael G. Sullivan, Registration No. 35,377. 2

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon. 2

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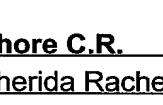
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**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original first and joint inventor (if plural names are listed below) of the subject matter for which a patent is sought on the invention entitled:

**"Attenuated Equine Herpesvirus"**

the specification of which

[CHECK ONE]

[ ] is attached hereto

[ ] was filed on \_\_\_\_\_ as Application Serial No.

and was amended on \_\_\_\_\_

[if applicable]

[X] is filed under the Patent Cooperation Treaty on **26/07/1999**  
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Prior Foreign Application(s)

Number	Country	Day/Month/Year filed	Priority claimed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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Number	Country	Day/Month/Year filed	<input type="checkbox"/> Yes <input type="checkbox"/> No
Number	Country	/ /	<input type="checkbox"/> Yes <input type="checkbox"/> No
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And I hereby appoint as principal attorney, William M. Blackstone, Registration No. 29,772, and Michael G. Sullivan, Registration No. 35,377.

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